

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

IN RE: Christopher W. Wells
Amy M. Wells
DEBTORS

CHAPTER 7
CASE NO. 12-12870-JDW

**AMENDED MOTION TO APPROVE COMPROMISE
AND SETTLEMENT OF CLAIM**

COMES NOW Jeffrey A. Livingston, duly appointed, qualified and acting Trustee in the above styled Chapter 7 bankruptcy proceeding, and files this his Amended Motion to Approve Compromise and Settlement of Claim arising out of Amy Wells' implantation of one or more AMS Pelvic Repair System Products, and in support thereof states as follows:

1. On or about July 13, 2012, the above Debtors filed for protection under Chapter 7 of the Bankruptcy Code. Subsequently, on June 6, 2016, the case was reopened, and the undersigned was appointed Successor Trustee in the case on September 14, 2017.

2. Prior to the filing of the bankruptcy petition and schedules on or about July 13, 2012, Debtor, Amy M. Wells received an implantation of one or more AMS Pelvic Repair System Products, which eventually failed. Multi-district claims were made against American Medical Systems, Inc., American Medical Systems Holdings, Inc., Endo Pharmaceuticals, Inc., and Endo Health Solutions, Inc., (collectively known as AMS), including the claim of the Debtor, Amy M. Wells.

3. On or about September 28, 2017, the undersigned Successor Trustee became aware of a settlement in favor of Debtor, Amy M. Wells, with AMS in the amount of \$90,000.00. Several mandatory liens were pending at that time, and on or about July, 2018, the Successor Trustee received notification that the liens had been resolved. A copy of the final settlement statement, including CBA fees, attorney fees and attorney expenses, is attached hereto as Exhibit "A".

4. The Trustee requests the authority to accept the aforesaid settlement in the total sum of \$90,000.00, less \$4,500.00 in CBA fees, less the \$6,171.84 subrogation lien of Blue Cross Blue Shield of Tennessee, less the \$1,050.00 Settlement Solutions Fee, less the \$111.00 Settlement Alliance Fee, and to execute any and all releases and other documents necessary to finalize the settlement pursuant to the agreement set forth in Exhibit "A. Additionally, pursuant to separate motion filed simultaneously herewith, the undersigned Trustee seeks compensation for the Mueller Law Firm and for Dan Chapman & Associates, LLC, for services rendered and expenses incurred relative to this claim.

5. Trustee states that the proposed settlement of \$90,000.00 is fair and reasonable and will be in the best interest of the bankruptcy estate since it will generate assets from which creditor claims can be paid.

WHEREFORE, the undersigned moves that this Court enter its order authorizing the compromise and settlement of the aforescribed claim in the gross amount of \$90,000.00 in order for funds to be generated for the benefit of creditors; authorizing him to execute any and all releases and other documents necessary to finalize the settlement; authorizing him to receive payment of the gross recovery, less any CBA fees (\$4,500.00);

less the subrogation lien imposed by Blue Cross/Blue Shield of Tennessee (\$6,171.84);
less the Settlement Solutions Fee (\$1,050.00); less the Settlement Alliance Fee (\$111.00),
and to retain the balance for asset administration and disbursement according to the
Bankruptcy Code and Rules and orders of this Court.

Respectfully submitted, this the 27th day of September, 2018.

//s// Jeffrey A. Levingston
Jeffrey A. Levingston, Trustee
MSB #1219
Norquist & Levingston PLLC
PO Box 1327
Cleveland, MS 38732
662/843-2791
jleving@bellsouth.net

CERTIFICATE OF SERVICE

I, the undersigned, Jeffrey A. Levingston, Trustee, do hereby certify that I have served a copy of the above and foregoing Amended Motion to Approve Compromise and Settlement of Claim, by either United States mail, postage prepaid, or by electronic transmission to the following:

Christopher W. Wells
Amy M. Wells
18 Wildcat Bottom Cove
Red Banks, MS 38661-9741

Karen B. Schneller
Attorney for Debtors
PO Box 417
Holly Springs, MS 38635
karen.schneller@gmail.com

Ronald H. McAlpin, Esquire
Assistant US Trustee
501 East Court Street, Suite 6-430
Jackson, MS 39201
Ron.McAlpin@usdoj.gov

The Mueller Law Firm
404 West 7th Street
Austin, TX 78701

Dan Chapman & Associates, LLC
PO Box 1343
Conyers, GA 30012

This the 20th day of September, 2018.

//s// Jeffrey A. Levingston
Jeffrey A. Levingston

SCHEDULE A

AMY WELLS AND CHRIS WELLS VS. AMS, INC.

(Revised)

GROSS SETTLEMENT AMOUNT (GSA) \$90,000.00

LESS DISBURSEMENTS:

COURT ALLOCATED COMMON BENEFITS ASSESSMENT (CBA) FEES (5% of GSA)¹ (\$4,500.00)

ATTORNEY PAID PORTION OF CBA FEES 4% \$3,600.00

PLAINTIFF PAID PORTION OF CBA FEES 1% \$900.00

5% \$4,500.00

NET ATTORNEYS' FEES 36% [40% - 4%(Attorney Paid % of CBA Fees)] (\$32,400.00)

ATTORNEYS' SPLIT

MUELLER LAW OFFICE 2/3 \$21,600.00

DAN CHAPMAN & ASSOCIATES, LLC 1/3 \$10,800.00

100% \$32,400.00

ATTORNEYS' OUT OF POCKET EXPENSES (\$2,736.96)

MUELLER LAW OFFICE \$2,709.96

DAN CHAPMAN & ASSOCIATES, LLC \$27.00

\$2,736.96

SETTLEMENT SOLUTIONS FEE (Lien Resolution Fees) (\$1,050.00)

SETTLEMENT ALLIANCE FEE (Qualified Settlement Fund) (\$111.00)

TOTAL ABOVE DISBURSEMENTS (\$40,797.96) (\$40,797.96)

NET SETTLEMENT AMOUNT DUE (BEFORE Mandatory Withholdings) \$49,202.04

LESS MANDATORY WITHHOLDINGS:

LIEN/SUBROGATION WITHHOLDINGS (BCBS OF TN) (\$6,171.84)

TOTAL MANDATORY WITHHOLDINGS (\$6,171.84) (\$6,171.84)

NET SETTLEMENT AMOUNT DUE TO (AFTER Mandatory Withholdings) \$43,030.20

- If Bankruptcy issues exist, the final net amount may change depending on resolution of Bankruptcy issues.

I (We) have read the above statement and am (are) fully satisfied with the handling of my (our) claim and the expenses incurred in the pursuit of this settlement. I (We) assume responsibility for any liens not referenced above. I (We) have not retained Mueller Law, PLLC to advise me (us) about the potential tax implications of these settlement proceeds, if any. Mueller Law, PLLC has however, recommended that I (we) consult with my (our) tax advisor with respect to my (our) settlement.

This _____ day of _____, 2018.

By: _____

By: _____

¹ This case is subject to a "Common Benefit" assessment pursuant to Pretrial Order 77, as amended by Pretrial Order No. 174, in American Medical Systems, Inc., Pelvic Repair Systems, Products Liability Litigation, five percent (5%) of the Settlement Payment shall be paid to the MDL 2325 Fund. This assessment is required by court order to be withheld from each claimant's settlement proceeds and paid directly by AMS into the Common Benefits Fund.